IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/09/2003

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRIMINAL REVISION CASE NO.1403 of 2003
and
Crl.M.P.No.8729 of 2003

1. K.V.Periya Pidaran
2. P.Periya Ilangan
3. Shanthi ... Petitioners

-Vs-

Dr.P.Sinna Ilangan ... Respondent

The above Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure as stated therein.

!For petitioners : Mr.P.Selvaraj.

^For Respondent : ---

:O R D E R

The above Criminal Revision Case has been filed praying to call for the records pertaining to the order dated 16.6.2003 made in M.C.No.401 of 2002 by the Executive First Class Magistrate-cum-Revenue Divisional Officer, Madurai and quash the same.

2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for the petitioner, what could be assessed is that on a complaint lodged by the respondent herein before the Sub-Inspector of Police, H1 Police Station, Madurai-2, on the allegation that on 26.5.2002 at about 2.00 p. m. his father, the first petitioner herein breaking open the nursing home and after locking the doors of the nursing home had gone out of station; that a case was registered in Crime No.589 of 2002 u/s 448 and 427 I.P.C. on 16.6.2002; that the respondent has also filed a suit in O.S.No.548 of 2002 on the file of the Court of District Munsif, Madurai Town for permanent injunction restraining the defendants therein from in any way disturbing the peaceful possession of the plaintiff over the suit property, and for costs.

4. It could be further assessed that the respondent has also filed a petition u/s 145 of Cr.P.C. before the Executive Magistrate/ Revenue Divisional Officer, Madurai praying to declare the petitioner/ respondent herein to be entitled to the possession of the property until evicted in due course of law, to restore the possession of Ramu Ammal Hospital situated in a portion at the ground floor of 6-A, Avvaiyar Street, Narimedu, Madurai to the petitioner/respondent herein who was in legal and factual possession and later forcibly and wrongfully dispossessed by the respondents, forbid all disturbances created by the respondents and furnish protection to the petitioner and his family; that the learned Executive Magistrate/Revenue Divisional Officer, Madurai, in consideration of the materials placed on record and upon hearing both the parties has come to the conclusion that the respondent herein is in possession of the premises bearing door No.6, Avvaiyar Street, Narimedu and he is running the nursing home in the name and style of 'Ramu Ammal Hospital' and has passed an order by his order dated 16.6.2003 made in M.C.No.401 of 2002 restraining the petitioners herein from interfering in any manner with the possession and enjoyment of the respondent herein, further directing the Inspector of Police Law and Order to give protection to the respondent herein. It is only testifying the validity of the said order, the petitioners have come forward to file this Criminal Revision Case praying for the relief extracted supra.

5. The object sought to be achieved under Section 145 Cr.P.C. being prevention of breach of peace and tranquility in the area, the Sub Divisional Magistrate concerned is only empowered to initiate a proceeding under Section 145 Cr.P.C. either based on a report by the police or on his own information and on being satisfied that there exists a breach of peace and tranquility to the subjects regarding a dispute concerned with the land, water, fisheries, market place etc., the said Magistrate, in order to prevent the breach of peace and tranquility to the subjects, could initiate such proceeding within his jurisdiction.

6. On a cursory reading of the order impugned herein would clearly show that there exists a breach of peace and tranquility to the dispute between the petitioners and the respondent regarding the premises and in order to prevent the breach of peace and tranquility to the Executive Magistrate/Revenue Divisional Officer could initiate such proceeding within his jurisdiction and hence this Court does not find any inconsistency or irregularity or patent error in the order passed by the Executive Magistrate/Revenue Divisional Officer and therefore, this Court is not inclined to interfere with the well considered and merited order and it is only desirable to dismiss the above Criminal Revision Case and hence the following order:

In result,
(i) the above Criminal Revision Case is without merit and the same is dismissed at the admission stage itself;
(ii) the order dated 16.6.2003 made in M.C.No.401 of 2002 by the Executive First Class Magistrate-cum-Revenue Divisional Officer, Madurai is hereby confirmed;

(iii) consequently, Crl.M.P.No.8729 of 2003 is closed.

Index:Yes
Internet:Yes
gr.
To
The Executive Magistrate/Revenue Divisional Officer, Madurai.